

Laura A. Ensign and Stephen T. Ensign, Plaintiffs *pro se*
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UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF OREGON

IN RE LAURA A. ENSIGN AND
STEPHEN T. ENSIGN,

Debtors

LAURA A. ENSIGN AND STEPHEN T.
ENSIGN,

Plaintiffs,

v.

“U.S. BANK NATIONAL
ASSOCIATION, AS TRUSTEE,”

Defendant.

Case No. 16-30920-pcm7

Chapter 7

Adversary Proceeding No.

ADVERSARY COMPLAINT

In this matter of a certain real property, WE ALLEGE:

1. Parties and Jurisdiction

We are the joint owners of the real property which is the subject matter of this case, that property being located at 29425 N.W. Mount Richmond Road, Gaston, Oregon.

According to our Secretary of State, Defendant “U.S. BANK, NATIONAL ASSOCIATION” is registered as an ABN entity number 462395-88.

This court has jurisdiction pursuant to 28 U.S.C.A. §157 and §1334, and FRBP (the Federal Rules of Bankruptcy Procedure) 7001(1), (2) and (9).

2. Adversary

We commence this adversary proceeding to determine the validity or extent of Defendant's claim against our property. Defendant named above has made aggressive, bad faith and fraudulent claims against our property based on a lost Note, and in spite of gross violations of the Fair Debt Collections Act ("FDCPA"), is now threatening to foreclose with the blessing of the Circuit Court for Yamhill County.

3. Rule 7008 statement

As required by FRBP 7008(a), to the best of our knowledge and understanding this is a non-core proceeding pursuant to 28 U.S.C.A. § 157.

4. Judgment sought

We are entitled to seek this court's declaratory judgment based on FRBP 7001 "to determine the validity, priority, or extent of a lien or other interest in property":

- A. Under the *actual and genuine* instruments material to this property,
- B. Under applicable Oregon law, and if Defendant is negligent *per se*;
- C. Declare who are the real parties in interest and who are strangers to the

Note and Deed of Trust;

- D. If Defendant is found to be a stranger to those instruments, and/or our Note is lost as provided by ORS 73.0309, to remove its cloud from our property's

title as "Further necessary or proper relief"; *and*

E. As part of "Further necessary or proper relief" apply all penalties allowed by the FDCPA.

5. Injunctive relief

The nature of declaratory proceedings provides we may also seek further necessary or proper relief. We reserve the right to invoke FRBP 7065 for injunctive relief to bar Defendant or its agents from proceeding against this property during the pendency of this case.

6. Recovering Costs And Disbursements

We reserve the right to recover all costs and disbursements at the appropriate stage of this case.

7. Request for relief

We pray this court declare our rights and other legal relations according to the above, and all other relief as this court finds lawful, just and equitable.

We reserve the right to have this Complaint construed so as to do justice according to applicable law.

Submitted with all rights reserved on April 11 2016



A handwritten signature in black ink, appearing to read "Laura A. Ensign". The signature is fluid and cursive, with "Laura A." on top and "Ensign" below it.

Laura A. Ensign and Stephen T. Ensign, Plaintiffs *pro se*

Business Registry Business Name Search

Business Entity Names returned for:

Name: U.S. BANK NATIONAL ASSOCIATION, AS
TRUSTEE

Using: Exact Words in Any Word Order
For Active and Inactive businesses.

[New
Search](#)

04-10-2016
09:31

Record No	Entity Type	Entity Status	Registry Number	Name Status	Name	Assoc Search

Your search returned no business entity names.

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B104 (10/06) ADVERSARY PROCEEDING COVER SHEET (Instructions on Page 2)		ADVERSARY PROCEEDING NUMBER (Court Use Only)
PLAINTIFFS LAURA A ENSIGN AND STEPHEN T ENSIGN	DEFENDANTS "U.S.BANK NATIONAL ASSOCIATION, AS TRUSTEE"	
ATTORNEYS (Firm Name, Address, and Telephone No.) none	ATTORNEYS (If Known) JESSE A.P. BAKER 4375 JUTLAND DRIVE SUITE 200 P.O. BOX 17933, SAN DIEGO, CA 92177-0933	
PARTY (Check One Box Only) <input checked="" type="checkbox"/> Debtor <input type="checkbox"/> Creditor <input type="checkbox"/> Trustee <input type="checkbox"/> U.S. Trustee <input type="checkbox"/> Other	PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input checked="" type="checkbox"/> Creditor <input type="checkbox"/> Trustee <input type="checkbox"/> U.S. Trustee <input type="checkbox"/> Other	
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) "Validity or extent of defendant's claim against our property . 28 U.S.C.A. §157 and §1334: 11a U.S.C.A. Rule 7001"		
NATURE OF SUIT (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)		
FRBP 7001(1) - Recovery of Money/Property <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other	FRBP 7001(6) - Dischargeability (continued) <input type="checkbox"/> 61-Dischargeability §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability §523(a)(15), divorce/sep property settlement/decrees <input type="checkbox"/> 65-Dischargeability - other	
FRBP 7001(2) - Validity, Priority or Extent of Lien <input checked="" type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property	FRBP 7001(7) - Injunctive Relief <input checked="" type="checkbox"/> 71-Injunctive relief - reinstatement of stay <input checked="" type="checkbox"/> 72-Injunctive relief - other	
FRBP 7001(3) - Approval of Sale of Property <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h)	FRBP 7001(8) - Subordination of Claim or Interest <input type="checkbox"/> 81-Subordination of claim or interest	
FRBP 7001(4) - Objection/Revocation of Discharge <input type="checkbox"/> 41-Objection/revocation of discharge - §727(c), (d), (e)	FRBP 7001(9) - Declaratory Judgment <input checked="" type="checkbox"/> 91-Declaratory judgment	
FRBP 7001(5) - Revocation of Confirmation <input type="checkbox"/> 51-Revocation of confirmation	FRBP 7001(10) - Determination of Removed Action <input type="checkbox"/> 01-Determination of removed claim or cause	
FRBP 7001(6) - Dischargeability <input type="checkbox"/> 66-Dischargeability - §523(a)(1), (14), (14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny	Other <input type="checkbox"/> SS-SIPA Case - 15 USC §§78aaa <i>et. seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)	
(continued next column)		
<input checked="" type="checkbox"/> Check if this case involves a substantive issue of state law	<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23	
<input type="checkbox"/> Check if a jury trial is demanded in complaint	Demand \$	
Other Relief Sought "As provided in our Complaint"		

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR Laura A Ensign and Stephen T Ensign	BANKRUPTCY CASE NO. 16-30920-pcm7	
DISTRICT IN WHICH CASE IS PENDING Oregon	DIVISIONAL OFFICE	NAME OF JUDGE
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISIONAL OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF)		
DATE	PRINT NAME OF ATTORNEY (OR PLAINTIFF)	

INSTRUCTIONS

The filing of a bankruptcy case creates an “estate” under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor’s discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also complete and file Form 104, the Adversary Proceeding Cover Sheet, unless the adversary proceeding is filed electronically through the court’s ECF system. When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff’s attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Parties. Give the names of the parties to the adversary proceeding exactly as they appear on the complaint. Give the names and addresses of the attorneys if known.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.